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The Brandeis Center and Jewish Americans for Fairness in Education Agree with Harvard to Settle Title VI Litigation

Today, Plaintiffs The Louis D. Brandeis Center for Human Rights Under Law and Jewish Americans for Fairness in Education (“JAFE”) announced that they have reached an agreement to resolve their claims against Harvard University. As part of the settlement, Harvard has agreed to implement a series of steps, building on measures that Harvard has undertaken over the past year as a part of its commitment to combating anti-Semitism. Harvard and the Brandeis Center look forward to working together in these efforts.

The agreement resolves claims raised by the Brandeis Center and JAFE on behalf of Harvard students in a federal lawsuit. Under the agreement, and consistent with Harvard’s existing Non-Discrimination and Anti-Bullying Policies (“NDAB”), which prohibit discrimination on the basis of ancestry, religion, national origin, or political beliefs, Harvard will incorporate the International Holocaust Remembrance Alliance (“IHRA”) definition of anti-Semitism including accompanying examples applied in the manner described in guidance issued by the Department of Education’s Office for Civil Rights (“OCR”) in 2021 and 2024. Harvard will accordingly consider in the same manner the IHRA definition and examples when evaluating NDAB complaints raising allegations of anti-Semitic discrimination or harassment.

In addition, Harvard shall post online a Frequently Asked Questions document (“FAQ”) relating to the NDAB, which shall be available online in the same location as the NDAB, clarifying that both Jewish and Israeli identity are covered by the NDAB; that the NDAB include among their protected categories shared ancestry or ethnic characteristics as well as political beliefs; and that the IHRA definition will be used as described above. The FAQ will include the following statement: “For many Jewish people, Zionism is a part of their Jewish identity. Conduct that would violate the Non-Discrimination Policy if targeting Jewish or Israeli people can also violate the policy if directed toward Zionists. Examples of such conduct include excluding Zionists from an open event, calling for the death of Zionists, applying a ‘no Zionist’ litmus test for participation in any Harvard activity, using or disseminating tropes, stereotypes, and conspiracies about Zionists (e.g., ‘Zionists control the media’), or demanding a person who is or is perceived to be Jewish or Israeli to state a position on Israel or Zionism to harass or discriminate.” The FAQ will include a list of examples of conduct that, provided that the required elements under the policy are met, may constitute prohibited discriminatory treatment or discriminatory harassment in violation of the NDAB.

Under the agreement, Harvard will also reaffirm at least annually that anti-Semitism will not be tolerated and that, consistent with the OCR Guidance, as described in further detail above, Harvard will consider the IHRA definition of anti-Semitism and examples in applying the NDAB. Harvard will also prepare a public annual report for the next five years that covers Harvard's response to discrimination or harassment based on Title VI-protected traits (with a lookback at disciplinary responses to NDAB complaints based on allegations of anti-Semitism since October 1, 2023). These reports will catalog Harvard's response to complaints based on allegations of anti-Semitism, consistent with FERPA, and assess Harvard's treatment of such complaints against its treatment of complaints based on allegations of other forms of bias.

To carry out these undertakings, Harvard will hire a designated individual for Harvard's Office for Community Conduct ("OCC") who will have responsibility for consulting on all complaints of anti-Semitism and for supervising the preparation of the annual reports required under the settlement. Harvard has also agreed to provide expert training on combating anti-Semitism and the IHRA definition for OCC staff involved in reviewing complaints of discrimination, and Harvard will broadly promote annual training for the University community focused on recognizing and combating anti-Semitism. The OCC director will also ensure that Title VI and Harvard's NDAB policies will be enforced equally, applying a single standard for all students, including Jewish and Israeli students.

Harvard will also invest additional academic resources to study anti-Semitism and will establish an official partnership with a university in Israel, in addition to programs the University currently has in place with Israeli universities. Harvard will provide an opportunity for the Brandeis Center to host a variety of events on campus. In addition, Harvard Kennedy School will provide an opportunity for three alumni of that school to organize and host an on-campus event, consistent with the relevant guidelines that apply to active student groups, on the substantive issues of Israeli Jewish democracy.

As part of this settlement with Brandeis Center and JAFE, which includes monetary terms, Harvard has not admitted to any wrongdoing or liability.

A Harvard University spokesperson said, "Today's settlement reflects Harvard's enduring commitment to ensuring our Jewish students, faculty, and staff are embraced, respected, and supported. We will continue to strengthen our policies, systems, and operations to combat anti-Semitism and all forms of hate and ensure all members of the Harvard community have the support they need to pursue their academic, research and professional work and feel they belong on our campus and in our classrooms."

Kenneth L. Marcus, founder and chairman of the Brandeis Center and the former U.S. Assistant Secretary of Education stated, “We are heartened that Harvard has agreed to take numerous important steps necessary to creating a welcoming environment for Jewish students. When fully and faithfully implemented, this agreement will help ensure that Jewish students are able to learn and thrive in an environment free from anti-Semitic hate, discrimination, and harassment. We thank those within Harvard, including administrators, faculty, students, and alumni, who have worked tirelessly to achieve this result. In turn, we look forward to working with Harvard on the important work in this agreement to ensure that the rights of all students are protected.”